

## **KENTUCKY HEALTH BENEFIT EXCHANGE ADVISORY BOARD**

### **QUALIFIED HEALTH PLANS SUBCOMMITTEE**

#### **Meeting Minutes**

**October 9, 2012**

#### **Call to Order and Roll Call**

The first meeting of the Qualified Health Plans Subcommittee was held on Tuesday, October 9, 2012, at 9:00 a.m. in the Small Conference Room at the Office of the Kentucky Health Benefit Exchange. Deborah Moessner, Chair, called the meeting to order at 9:00 a.m., and the secretary called the roll.

Subcommittee Members Present: Deborah Moessner, Chair; Jeffrey Bringardner (by phone), Ruth Brinkley (by phone), Carl Felix, Donna Ghobadi, and Dr. Michael Huang (by phone).

Staff Present: Carrie Banahan, Sharron Burton, Chris Clark, Reina Diaz-Dempsey, Miriam Fordham, Wanda Fowler, Kris Hayslett, Bill Nold, Brenda Parker, Sherilyn Redmon, and Gary Smith.

#### **Addition of New Members**

Chairman Moessner introduced the new subcommittee members: Julia Costich, Dr. Joe Ellis (by phone), Nancy Galvagni, Shelley Gast, Dr. Amanda Howell (by phone), Robert McFalls, Ramona Osborne, Dr. Andrew Slavik, and Joe Smith. Mr. McFalls and Mr. Smith were not present at the meeting.

#### **Discussion of Blueprint Items: 4.1-4.8**

Bill Nold, Deputy Executive Director, Office of the Kentucky Health Benefit Exchange, provided information to the subcommittee on Qualified Health Plans. A Qualified Health Plan (QHP) has to meet federal standards as set forth in the Affordable Care Act (ACA) or regulations promulgated under the ACA. The latest regulations were promulgated in March 2012. A QHP also has to meet applicable state standards that are not preempted by federal law. Mr. Nold stated that the doctrine of preemption is that federal law controls over state law in certain circumstances, and that the preemption standard being used in the Affordable Care Act is the same as was used in the Health Insurance Portability and Accountability Act (HIPAA). There are some laws in Kentucky's Insurance Code Book that may be preempted and others that may not be preempted. Qualified health plans will also have to meet any additional standards as required by the state, which may require a statutory change in some instances.

Mr. Nold stated that the Exchange Blueprint must be submitted to the federal government for approval by November 16. Blueprint Item 4.1 has been completed with the issuance of the

Executive Order establishing the Kentucky Health Benefit Exchange. In order to fulfill the certification requirements outlined in Blueprint Items 4.2 through 4.2b, the Exchange will rely on the Department of Insurance (DOI) to carry out many of the certification functions and will probably enter into an interagency agreement similar to the current agreement to draw on DOI expertise.

The System for Electronic Rate and Form Filing (SERFF) will play a key part in processing and certifying Qualified Health Plans. SERFF is used by most insurers for rate filings. The Exchange has subscribed to an enhanced version of SERFF that will allow for filing of a QHP to be certified. SERFF is scheduled to be ready for insurers to file forms on December 1, 2012, and Kentucky plans to be ready to accept filings by January 1, 2013. Chris Clark, Program Manager, Kentucky Health Benefit Exchange, stated that the federal Department of Health and Human Services looks favorably on states' utilization of SERFF for QHP data collection and analysis and reporting functions as outlined in Blueprint Items 4.2, 4.3, and 4.5 and attesting to use of SERFF accelerates approval of the Blueprint.

Mr. Nold noted that under the Affordable Care Act, multi-state plans and Consumer Operated and Oriented Plans (CO-OPs) are deemed to be certified as Qualified Health Plans.

Mr. Nold discussed federal regulations regarding the timeline for accreditation, minimum service areas, network adequacy, open enrollment, certification requirements, reporting requirements, and essential community providers, and stated that the subcommittee may need to consider recommendations relating to some of these policy areas. After studying the issue, the Exchange recommends that the state continue to use the eight Medicaid managed care regions as the minimum service areas. After some discussion, Chairman Moessner requested that the issue be included as an agenda item for the next meeting.

Ms. Osborne recommended that a machine readable swipe card, an availability portal, and in-network credentialing criteria be added to the requirements for QHP certification for administrative simplification. Chairman Moessner requested that Ms. Osborne submit her recommendations in writing to the subcommittee for consideration. Mr. Bringardner asked for a definition of essential community providers. Mr. Nold stated that a definition is included in the federal regulations, and there is a process in place to determine which entities qualify as essential community providers. Mr. Felix suggested that an inventory of submissions already required be made to build an economy within reporting to reduce the redundancy of reporting for insurers.

In response to a question, Mr. Nold stated that based on the previous Supreme Court case regarding Kentucky's any willing provider law, the Affordable Care Act would not preempt Kentucky's any willing provider law, but there needs to be further legal analysis to confirm that opinion. Mr. Nold also stated in response to a question that multi-state plans are subject to state laws and in his opinion would be subject to Kentucky's any willing provider law and network adequacy requirements. States are awaiting the Office of Public Management regulations regarding multi-state plans. Chairman Moessner requested that information on multi-state plans and CO-OPs and any exceptions to state laws allowed by these entities be provided to the subcommittee at the next meeting.

**Other Business**

The next meeting of the subcommittee will be held on October 23, 2012. Members will be notified of the meeting time.

**Adjournment**

The meeting adjourned at 10:30 a.m.